

Exhibit

3



Joel B. Rothman

Board Certified in Intellectual Property Law

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January 28, 2021

VIA EMAIL: jen@paratex.com; ed@paratex.com

Mr. Jen Osborn

Mr. Ed Kloth

Paratex Pest Prevention

423 S. Horton Street

Seattle, WA 98134

Re: Fotohaus, LLC v. Paratex Pest Prevention

Our File No.: 00256-0056

Dear Mr. Osborn and Mr. Kloth,

We are a law firm making a claim on behalf of our client. We know that this is reaching you during a difficult and trying time and that you may have more pressing concerns. We appreciate that responding to this letter may not be your first priority. However, we must receive a response from you so that we know that you are taking this matter seriously, even if you need more time to hire a lawyer or report this claim to your insurance carrier. If we hear from you then we can work with you to understand your position and resolve our client's claim. Please respond to us.

We write on behalf of our client Fotohaus, LLC, a photograph licensing agent, for purposes of resolving a case of copyright infringement against you by our client. This demand is privileged from disclosure pursuant to FRE Rule 408.

Please provide this letter to your general liability insurance carriers or other providers of insurance that may cover this claim.

Fotohaus, LLC ("Fotohaus")

Daniel Foster, owner and principal photographer of Fotohaus, has a history of taking highly unique abstract architecture photographs that focus on lines and geometry. His works have been featured 18 times in the highly-coveted "Explore" section of Flickr. More than 86,000 fans follow his work on Instagram. Daniel is a member of the Royal Photographic Society and Professional Photographers of America. His work has been published online and offline through a variety of publications, including National Geographic, der Freitag, the World Wildlife Fund, and Smithsonian. Daniel licenses his

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12 Powder Springs St.
Suite 200
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FLORIDA

21301 Powerline Rd.
Suite 100
Boca Raton, FL 33433

TENNESSEE

818 18th Ave. S.
10th Floor
Nashville, TN 37203

NEW YORK

125 Maiden Lane
Suite 5C
New York, NY 10038

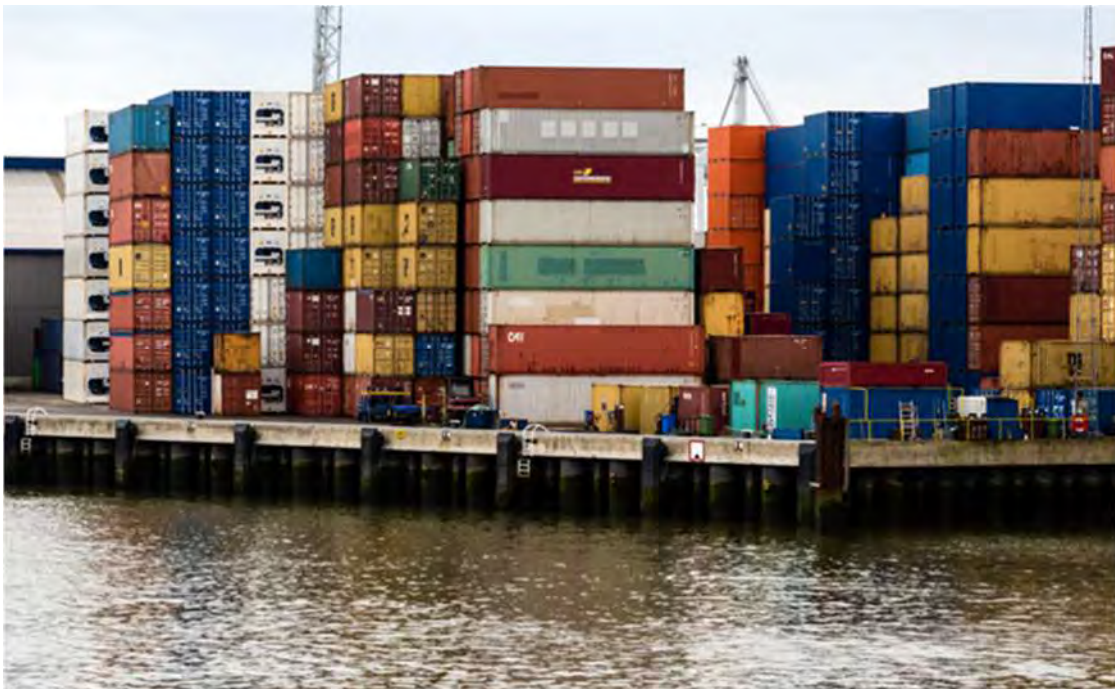
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work commercially on a selective basis and is currently working to establish himself as a fine art photographer. His prints are available for purchase through Saatchi Art.

Fotohaus retains all copyrights to its photographs. Fotohaus licenses its copyrighted Works, such as the one in this case, for commercial use.

Fotohaus created the image, hereinafter referred to as the "Work."

The Work at issue is shown below.



Fotohaus registered the Work with the Register of Copyrights on December 31, 2013 and was assigned the registration number VA 1-905-231, a copy of which is enclosed.

Infringement by Paratex Pest Prevention ("Paratex")

We have enclosed contemporaneous evidence of the infringement by Paratex. You have employed our client's Work in at least the manner indicated in the evidence attached. You are fully aware that the Work you used is our client's Work. No one from your company ever sought a license from our client to use the Work for any purpose.

You have copied, displayed and distributed our client's Work without permission, license or consent. The use of a creator's photographic image without written consent or license violates the United States Code, Title 17, and The Copyright Act. The Copyright

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Act provides for entry of an injunction directing removal of the offending materials pending litigation. This letter shall serve as formal notice that you immediately cease and desist all unauthorized uses of our client's Work. Any such further uses shall be at your peril.

If you possess a contract, license, agreement or writing on which you will rely for authorization of your use of our client's Work, please provide us with this evidence so we may avoid further controversy or litigation. Otherwise, we will be forced to assume that your use violated the law.

Damages

Copyright law provides several different elements of compensation to Fotohaus when a work is infringed or altered. Section 504 permits Fotohaus to recover actual damages plus "any additional profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages," or statutory damages of up to \$150,000 per work infringed if the registration predated the infringement. Fotohaus can present both damages theories to the jury and select the higher award any time prior to entry of judgment.

Academic studies have demonstrated that the use of good quality photographs more effectively market and advertise products and drive sales. Fotohaus's photographs are of the highest quality. Fotohaus's photographs are also scarce since it is one of the only sources of such quality photographs.

Fotohaus's damages are not limited to what it would have agreed to license the Work for prior to the infringement. Rather, Fotohaus's actual damages will be measured by the fair market value of the photograph considering Paratex's use to sell and promote its business. Fotohaus's actual damages must be measured in light of Paratex's use of Fotohaus's high quality and unique Work.

This is consistent with federal courts' approach to broadly construing the term "actual damages" to favor victims of infringement. See, e.g., *Davis v. Gap, Inc.*, 246 F.3d 152, 164 (2d Cir. 2001). The fair market value approach for calculating damages is an accepted approach to valuing the defendants' uses of photographs. See *Leonard v. Stemtech Int'l, Inc.*, Nos. 15-3198, 15-3247, 2016 U.S. App. LEXIS 15565 (3d Cir. Aug. 24, 2016). In addition, Fotohaus can offer evidence of the actual cost to take the photograph infringed on a time and materials basis.

Section 504 of the Copyright Act permits Fotohaus to recover actual damages plus "any additional profits of the infringer that are attributable to the infringement and are not

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taken into account in computing the actual damages." Therefore, Fotohaus will also be entitled to Paratex's profits from the infringement, based upon the revenue Paratex earned in connection with the use of Fotohaus's Work.

Alternatively, Fotohaus could seek statutory damages for infringement in an amount of up to \$30,000 per work infringed if the registration predated the infringement. There is also the possibility that a judge or jury could determine that Paratex's infringement was willful. If Paratex's infringement was shown to be willful, the statutory damage award would increase to an amount up to \$150,000 per work infringed.

Demand

In order to determine how to proceed, please provide us with information and documents showing:

1. the full nature and extent of the use of our client's Work, in any and all formats;
2. representative copies in any and all tangible form and media in which our client's Work was incorporated or employed; and
3. the source of the Work.

Upon receipt of this information we will consider and determine an appropriate amount required to be paid to our client in compensation.

Please carefully consider this letter and the associated exhibits and provide them to your attorneys and insurance carriers. If we do not receive a response from you or a representative by February 11, 2021, we will take further steps to protect our client's rights. We look forward to your prompt response.

Sincerely,

SRIPLAW



Joel B. Rothman

JBR/tsu
Enclosures

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Copyright

United States Copyright Office

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Public Catalog

Copyright Catalog (1978 to present)

Search Request: Builder = (Daniel AND Foster)[in Keyword Anywhere (GKEY)] AND ("Industrial Stairs")
[in Keyword Anywhere (GKEY)]

Search Results: Displaying 1 of 1 entries

[Labeled View](#)

A New Perspective.

Type of Work: Visual Material

Registration Number / Date: VA0001905231 / 2013-12-31

Application Title: A New Perspective.

Title: A New Perspective.

Description: Electronic file (eService)

Copyright Claimant: Daniel Foster. Address: 9004 Pink Pearl Court, Shreveport, LA, 71115, United States.

Date of Creation: 2013

Date of Publication: 2013-10-09

Nation of First Publication: United States

Alternative Title on Application: Group registration of 32 photographs published from October 9, 2013 - December 27, 2013

Authorship on Application: Daniel Foster; Citizenship: United States. Authorship: photograph(s)

Rights and Permissions: Daniel Foster, 9004 Pink Pearl Court, Shreveport, LA, 71115, United States, daniel@pixsy.com

Copyright Note: Regarding publication: Range of dates: October 9, 2013 - December 27, 2013

Contents: A New Perspective.

Berlin Balconies.

Berlin Hauptbahnhof.

Berlin Fall.

Berlin Kanzleramt.

Cargo Ship.

Cargo Ship 2.

Cargo Ship Loading.

Erasmus Bridge.

Industrial Stairs.

Just Another Office Building.

Natural Beauty.

Natural Gas Fracking in Louisiana.

Natural Gas Rig.

Onward and Upward.

Path on the Coast.

Rotterdam Port.

Schillingstrasse Berlin.

Ship at Port.
Ship at Port 2.
Shipping Container Crane.
Shipping Containers.
Shipping Containers 2.
Shipping Containers 3.
Shipping Crane.
Sushi.
Train Bridge.
University of Greenwich.
Unloading a Ship.
Water in the Grasslands.
West Coast.
Wind Energy.

Names: [Foster, Daniel](#)



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URL	https://paratex.com/what-we-do/fumigation/
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Fumigation

The fumigation division of Paratex was started as a ship supply business on the Seattle waterfront in 1908. The company was soon called to place sulfur pots in the holds of ships to eliminate residual rat populations from foreign ports.

Fumigation is the use of a gas instead of a liquid or dust pesticide. It is much more effective in eliminating the egg and larva stage of insects and it also has the advantage of not leaving a residual pesticide. Paratex is one of the few companies in the Northwest with the licenses, insurance and experience to perform fumigations. We also have the only sealed fumigation chamber available to the public in our area.

Paratex is one of the few companies in the Northwest with the licenses, insurance, and experience to perform fumigations.

Our facility is used for WA state Dept. of Agriculture [USDA] import and export requirements of goods to foreign countries. It is available to the general public for the fumigation of items such as carpets, clothing, furniture and antiques with moths, beetles or other pest infestations.



Our vacuum chamber is 24 ft long and 9 1/2 ft in diameter

We have decades of experience working with the USDA and various foreign governments to meet import/export requirements. We can also assist you with drayage to and from the various piers and transloading when required. We will help you find the most cost-effective and timely process to meet requirements.

For information on scheduling fumigations off-site or at Paratex contact Raffy Sanchez, our Fumigation coordinator at [800-542-1234](tel:800-542-1234) or email rsanchez@paratex.com .



We have years of experience working with USDA, Washington State Dept of Agriculture and various foreign governments to meet import/export requirements

Call us to schedule an evaluation, or do it online!
If we can't fix it we'll tell you who can.

. 800-542-1234

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